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OFFICE OF PETITIONS

In re	:
Russell, et al.	:
Application No. 09/667,947	: DECISION REGARDING
Filed: September 22, 2000	: PATENT TERM ADJUSTMENT
Patent No. 6,896,881	:
Issued: May 24, 2005	:

This decision is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT" filed June 16, 2005, requesting correction of the patent term adjustment (PTA) indicated on the patent.

The request is **DISMISSED**.

On May 24, 2005, the above-identified application issued into patent no. 6,896,881, with a patent term adjustment (PTA) of four hundred nineteen (419) days. On June 16, 2005, applicants submitted the instant "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT". Applicants state that the PTA of 419 days "appears to be longer than appropriate."

The Office initially determined a patent term adjustment of four hundred nineteen (419) days based on an adjustment for PTO delay of six hundred ten (610) days pursuant to 35 U.S.C. 154(b)(1)(B) and 37 C.F.R. § 1.703(b), reduced by one hundred forty-one (141) days of applicant delay pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(8), and six (6), three (3), thirty-eight (38) and three (3) days of applicant delay pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b).

Review of the record indicates that the PTA of four hundred nineteen (419) days as indicated on the patent is correct. It is true that applicants filed a terminal disclaimer on June 21, 2004. However, in calculating the PTA, the Office does not differentiate between patents that have terminal disclaimers and those that do not. Nor does the Office undertake the burdensome task of reviewing every application with a terminal disclaimer to determine if the patent term adjustment accorded would adjust the term beyond the expiration date specified in the disclaimer.

Rather, on issuance of the application, in compliance with 35 U.S.C. 154(b) and 37 C.F.R. § 1.703(g), it is indicated in the patent that the PTA indicated therein is subject to any disclaimer. Moreover, it is also stated therein that the patent is subject to a terminal disclaimer.

As the application file has already issued into a patent, the file is being returned to Files Repository.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

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